

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DARIUS DIX,

Defendant.

17-CR-162
ORDER

Along with co-defendants Ramone Westbrook, Rico L. Freeman, Corey Bradberry, and Kurtis Washington, Darius Dix is charged in a one-count indictment with conspiracy to possess with intent to distribute and to distribute 5 kilograms or more of a mixture and substance containing cocaine and 280 grams of more of a mixture and substance containing cocaine base. Docket Item 1. On January 9, 2018, Dix filed omnibus motions, including a motion to suppress “physical evidence and statements obtained pursuant to the arrest of Mr. Dix on December 27, 2016 in the city of Lockport New York.” Docket Item 32 at 3. On January 26, 2018, the government responded. Docket Item 40. On January 26, 2018, Magistrate Judge H. Kenneth Schroeder, Jr., issued a Report, Recommendation, and Order (“R&R”), recommending the denial of the motion to suppress. Judge Schroeder noted that Dix failed to submit an affidavit from someone with personal knowledge to support the motion and that Dix had “failed to describe in any way the facts and circumstances that would justify holding a hearing let alone suppression of evidence.” Docket Item 41 at 1-2.

The defendant did not object to Judge Schroeder’s R&R, and the time to object now has expired. For that reason, the defendant has waived his right to have the R&R

reviewed. See Fed. R. Crim. P. 59(b)(2) (“Failure to object in accordance with this rule waives a party’s right to review.”); see *a/so* Docket Item 41 at 5.

Nevertheless, in its discretion, this Court has carefully reviewed Judge Schroeder’s R&R (Docket Item 41). Based on that review and the absence of any objection, and for the reasons stated in the R&R, this Court adopts Judge Schroeder’s R&R in its entirety. Dix’s motion to suppress is DENIED.

SO ORDERED.

Dated: February 22, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE